

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

No. S14 98-cr-1023 (LAK)

v.

**ATTORNEY
AFFIRMATION in
SUPPORT OF
MOTION for LEAVE**

Sulaiman Abu Ghayth,
Defendant.
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STANLEY L. COHEN, an attorney admitted to practice as such before the courts of the State of New York and the United States District Court for the Southern District of New York, affirms under pain and penalty of perjury the following to be true, except that stated upon information and belief, which he believes to be true:

1. The undersigned is attorney of record for Mr. Abu Ghayth in the case at bar and as such is fully familiar with the pleadings and proceedings heretofore had in this matter.
2. This affirmation is submitted in support of Defendant's attached motion for an order granting leave to file an *ex parte* affirmation with the Court, to be sealed, which supports a Motion to Continue to be filed today, in accord with Your Honor's motion schedule as set at hearing on 23 December.
3. On or about 20 December, the Defendant was arraigned on a superseding indictment, adding two additional charges which, it is submitted, alter the theory under which Abu Ghayth must defend himself.
4. On 23 December, the Defendant asked the Court during oral argument to continue the trial date some sixty days on the basis of the superseding indictment which, we submit,

requires additional time to prepare for a trial in accord with the Defendant's fundamental rights to an effective assistance of counsel, to due process and to confrontation. The trial date is presently set for 3 February 2014.

5. On 23 December the Court set a motion schedule with regard to the superseding indictment, which requires Defendant to file his applications no later than today. Among the relief the Defendant will seek is a written application for a continuance of the trial schedule, expanding upon the arguments raised at the hearing.
6. Later today, that motion will be filed by ECF, along with others, and will include an affirmation of counsel setting forth the various grounds upon which the Defendant is in need of a sixty-day continuance to prepare for trial under the new indictment.
7. Counsel wishes to submit, contemporaneously, for the Court's further consideration a second affirmation which details in greater depth and specificity the identity and importance of one additional witness, who it is believed possesses not just material, relevant and exculpatory information as to Abu Ghayth, but who is prepared to testify in his behalf. It is respectfully submitted that the identity of this particular witness, the evidence which we believe he possesses, and the defense strategy which derives therefrom is, at this point, beyond the reach of the Government's right to know.
8. Counsel has spoken with the Government and it consents to the instant application, and it has no objection to the Court's consideration of the affirmation *ex parte* while it preserves any objections it may otherwise have at trial or any other proceeding as to the admissibility of the evidence or any witness discussed in that submission, should that arise.

WHEREFORE, upon the foregoing grounds, the Defendant moves the Court with the consent of the Government for an order granting leave to submit, with the Defendant's Motion to Continue the trial for sixty days, an affirmation to be filed *ex parte* and under seal for the Court's consideration.

Dated: New York, New York
On this 6 January 2014

A handwritten signature in dark ink, appearing to be 'SLC', is written above a horizontal line. A long, thin, curved line extends from the right side of the signature, ending in a small arrowhead pointing towards the top right.

STANLEY L. COHEN, ESQ.
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